

with the equity condition as stipulated in the manufacturing licence or unless an extension of time has been granted for compliance with the equity condition. In addition, where it is established that the raw materials/components are not manufactured locally, treatment of exemptions from custom duties are as follows:-

Full exemption from import duties is normally given under the following circumstances:

- (i) The finished product made from dutiable raw materials/components is not subject to any import duty or surtax.
- (ii) The manufacturing company has complied with the New Economic Policy in terms of equity participation, management and employment structure in all categories.

In all other cases, partial exemption can be considered in which manufacturers are normally required to pay 2% or 3% surtax or import duty.

For raw materials which are subject to import duty of 3% or less, exemption will not be considered and companies are expected to pay the duty.

Applications should be submitted to MIDA in the prescribed forms.

6. Drawback of excise duty on direct raw materials/components

Under the Excise Duties (Drawback) Order 1977, a drawback of excise duty in respect of raw materials can be claimed if such raw materials on which excise duty has been paid are used in the manufacture of goods and then exported.

Movement of excisable goods from licensed premises for use in the manufacture of goods by a factory in a Free Trade Zone is considered as export of goods from Malaysia.

7. Exemption from customs duty on machinery and equipment

Nearly all machinery and equipment which are not produced locally and which are directly used in the manufacturing process are not subject to import duty, surtax and sales tax. Quantitative controls on imports of these machinery have been removed. Machinery and equipment still subjected to import duty can be considered for tax exemption provided certain conditions and criteria are fulfilled.

8. Drawback of customs duties

(a) Goods eligible for drawback of customs duty

All duty-paid goods used as parts or ingredients in the manufacture of other goods, which are subsequently exported, are eligible for drawback of duty in full. Packaging materials are not eligible for drawback.

The conditions for duty drawback as stipulated under Section 99 of the Customs Act, 1967 are as follows:-

- (i) the goods exported have been manufactured on premises approved by the Director-General of Customs;
- (ii) provision to the satisfaction of the Director-General has been made for the control and supervision on such premises of the deposit and issue for use of the prescribed goods;

- (iii) such books of accounts are kept as the Director General may require for the purpose of ascertaining the quantity of the prescribed goods used in such manufacture;
- (iv) such prescribed goods have been imported by the manufacturer;
- (v) such prescribed goods are re-exported within 12 months of the date upon which import duty was paid;
- (vi) such claim in respect thereof is made in the prescribed form;
- (vii) duty payment receipts, invoices, and other confirmation of importation shown in the statement of claim; and
- (viii) certified statement by the claimant confirming exportation of goods.

If the documents are in order and all their particulars correct, payment is expected to be made within one month of the claims being lodged.

(b) Claim for duty drawback - procedure

Application for drawback facility should be made by the manufacturer on a special format. Claim for drawback of customs duty (import duty and surtax) under Section 99 of the Customs Act, 1967 must be made on Form Customs No. 15. The form should contain particulars of the claims including the method or formula for calculating the drawback claim. The claim on Form Customs No. 15 should be supported by the following documents:

- (i) Import Form (Customs No. 1) showing the importation of raw materials on which duty has been paid.
- (ii) Export Form (Customs No. 2) showing exportation of finished goods.
- (iii) Statement of claims signed by an authorised official of the company confirming the exportation of goods on which drawback is claimed.

9. Goods exported to Free Trade Zones, Labuan and Langkawi

Movement of goods from the Principal Customs Area to a Free Trade Zone which are liable for drawback of duty is regarded as export. Therefore, such goods if manufactured in the customs area will be eligible for drawback of duty. Similarly, goods moved to the islands of Labuan and Langkawi from the Customs Area is regarded as an export in so far as drawback of duty is concerned.

7. Manufacture in the Customs Act, 1967 means:-
- in the case of intoxicating liquors, distilling, brewing, fermenting, bottling of intoxicating liquor and includes the addition of any substances other than water to any intoxicating liquor and the blending, compounding and varying of intoxicating liquors with intent that the compound so formed shall be sold for human consumption, but excluding any such compound prepared at the order of the purchaser, and for his immediate consumption;
 - in the case of tobacco, any process converting any raw or leaf tobacco into tobacco fit for smoking, snuffing or chewing, and includes the making of cigarettes from manufactured tobacco;
 - in the case of petroleum, refining, compounding and includes the addition of any foreign substance; and
 - in other cases, the conversion by manual or mechanical means of organic or inorganic materials into a new product by changing the size, shape, composition, nature or quality of such materials and includes the assembly of parts into a piece of machinery or other products, but does not include the installation of machinery or equipment for the purposes of construction.